

# HOUSE BILL No. 1112

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-6-9; IC 24-5-22; IC 27-2-20.

**Synopsis:** Privacy of consumer information. Prohibits certain entities from disclosing nonpublic personal information of a consumer to an unrelated third party if the information will be used for a business or marketing purpose. Allows the attorney general to bring an action to collect a civil penalty for a violation.

**Effective:** July 1, 2003.

**Cheney**

January 7, 2003, read first time and referred to Committee on Commerce and Economic Development.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1112

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-6-9-4.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2003]: **Sec. 4.3. The attorney general has the following powers**  
4 **and duties regarding privacy of consumer information under**  
5 **IC 24-5-22:**

6 (1) **To investigate complaints received alleging illegal**  
7 **disclosure of nonpublic personal information.**

8 (2) **To seek injunctive relief as appropriate.**

9 (3) **To institute an action to levy and collect a civil penalty.**

10 SECTION 2. IC 4-6-9-4.5 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2003]: **Sec. 4.5. (a) If an investigation under section 4.3 of this**  
13 **chapter results in a finding of illegal disclosure of nonpublic**  
14 **personal information, the attorney general may bring an action in**  
15 **a circuit or superior court with jurisdiction in the county in which**  
16 **the consumer (as defined in IC 24-5-22-2) or the person (as defined**  
17 **in IC 24-5-22-4) who allegedly illegally disclosed the information**



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1 is located.

2 (b) If the court finds that a person illegally disclosed nonpublic  
3 personal information, the court may assess a civil penalty as  
4 described under IC 24-5-22-14.

5 SECTION 3. IC 24-5-22 IS ADDED TO THE INDIANA CODE AS  
6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2003]:

8 **Chapter 22. Privacy of Consumer Information**

9 **Sec. 1. As used in this chapter, "business or marketing purpose"**  
10 **means an act to promote, advertise, or solicit the purchase or**  
11 **acquisition of the goods and services of a person.**

12 **Sec. 2. As used in this chapter, "consumer" means an individual**  
13 **who purchases, obtains, or receives, or attempts to purchase,**  
14 **obtain, or receive, a good or service from a person for personal use.**

15 **Sec. 3. As used in this chapter, "nonpublic personal**  
16 **information" means information that:**

- 17 (1) discloses personal information about a consumer;
- 18 (2) is provided by a consumer to another person as a
- 19 component of a transaction or in exchange for a service
- 20 performed for the consumer; and
- 21 (3) is not publicly available.

22 **Publicly available information includes but is not limited to**  
23 **information about a consumer available in a public telephone**  
24 **directory or a publicly recorded document.**

25 **Sec. 4. As used in this chapter, "person" means a human being,**  
26 **a corporation, a limited liability company, a partnership, an**  
27 **association, a firm, a business trust, a joint venture, or other legal**  
28 **entity.**

29 **Sec. 5. As used in this chapter, "unaffiliated third party" means**  
30 **a separate independent entity not related by ownership and with**  
31 **no financial stake or interest in the goods or services of another**  
32 **person.**

33 **Sec. 6. Except as provided in section 7 of this chapter, a person**  
34 **may not disseminate, share, distribute, or sell nonpublic personal**  
35 **information about a consumer to an unaffiliated third party for a**  
36 **business or marketing purpose related to the person or an**  
37 **unaffiliated third party.**

38 **Sec. 7. A person may disseminate, share, distribute, or sell**  
39 **nonpublic personal information about a consumer to an**  
40 **unaffiliated third party for a business or marketing purpose if the**  
41 **consumer provides prior written consent to the disclosure of the**  
42 **nonpublic personal information.**



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1       **Sec. 8. A consent form under section 7 of this chapter must**  
 2       **include:**

- 3       (1) a clear and conspicuous explanation of each anticipated  
 4       use of the nonpublic personal information;  
 5       (2) a clear and conspicuous description of the nonpublic  
 6       personal information that will be disclosed; and  
 7       (3) the name of each unaffiliated third party to whom the  
 8       nonpersonal public information will be disclosed.

9       **Sec. 9. An unaffiliated third party that receives nonpublic**  
 10       **personal information under section 7 of this chapter is bound by**  
 11       **the requirements of this chapter.**

12       **Sec. 10. This chapter shall not be construed to control or**  
 13       **regulate the exchange of nonpublic personal information between**  
 14       **affiliates.**

15       **Sec. 11. A person who receives nonpublic personal information**  
 16       **from a consumer and who disseminates, shares, distributes, or sells**  
 17       **the nonpublic personal information in violation of this chapter is**  
 18       **subject to a civil penalty as described in section 14 of this chapter.**

19       **Sec. 12. An unaffiliated third party who:**

- 20       (1) receives nonpublic personal information under section 7  
 21       of this chapter or for a nonbusiness or nonmarketing purpose  
 22       and who disseminates, shares, distributes, or sells the  
 23       nonpublic personal information in violation of this chapter; or  
 24       (2) makes a false or misleading statement to a person in order  
 25       to obtain the nonpublic personal information of a consumer;  
 26       is subject to a civil penalty as described in section 14 of this  
 27       chapter.

28       **Sec. 13. A person who disseminates, shares, distributes, or sells**  
 29       **nonpublic personal information to an unaffiliated third party and**  
 30       **who in good faith believes that the information is permitted to be**  
 31       **distributed:**

- 32       (1) under section 7 of this chapter; or  
 33       (2) for a nonbusiness or nonmarketing purpose;  
 34       is not liable for a civil penalty under section 14 of this chapter if the  
 35       unaffiliated third party uses the information in violation of this  
 36       chapter.

37       **Sec. 14. A person or an unaffiliated third party who violates this**  
 38       **chapter is subject to a civil penalty of not more than one thousand**  
 39       **five hundred dollars (\$1,500) for each violation. The attorney**  
 40       **general acting in the name of the state has the exclusive right to**  
 41       **petition for recovery of the penalty.**

42       **Sec. 15. This chapter does not create a private right of action by**

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1     **a consumer against a person.**  
2     SECTION 4. IC 27-2-20 IS REPEALED [EFFECTIVE JULY 1,  
3     2003].

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